IN THE
SUPREME COURT OF THE UNITED STATES

NO. _____

_____TERM 19_____

JUAN BENGZON,
Petitioner,

– vs. –

THE SECRETARY OF JUSTICE
and
THE INSULAR AUDITOR
OF THE PHILIPPINE ISLANDS,
Respondents.

BRIEF FOR THE PETITIONER

This is a petition for a writ of certiorari under the provisions of Section 7 of the Act of Congress of February 13, 1925 (43 Stat. at L. 940, Anno. Supp. 1925, p. 90); paragraph 6, Section 6 of the Act of Congress of March 24, 1934, (Public No. 127-73rd Congress, Tydings-McDuffie Act c. 84, 48 Stat.456); and paragraph 13, Section I, ARTICLE XVII of the Constitution of the Commonwealth of the Philippines, giving jurisdiction to this Honorable Supreme Court to review upon certiorari the final judgment of the Supreme Court of the Philippine Islands in all cases wherein the Constitution, or any statute or treaty is involved or wherein the controversy exceeds $25,000.00, or wherein the title or possession of real estate exceeding in value the sum of $25,000.00 is involved or brought in question. Under Section 8 of the Act of Congress of February

13, 1925, application for the writ must be made within six months after the entry of the judgment or decree sought to be reviewed.

STATEMENT OF FACTS AND SUMMARY OF THE CASE

Juan Bengzon, the petitioner, was in the Government service as Justice of the Peace for the municipality of Lingayen, Pangasinan, P. I., from March 7, 1912, to January 14, 1933, on which latter date he was retired from the service by reason of Act No. 3899 of the Philippine Legislature, which provides that the Justices of the Peace who have reached the age of 65 years shall be automatically retired from the service. On February 21, 1933, the Philippine Legislature passed Act 4051 (Exhibit A, Record pp. 4-8), commonly known as the Gratuity Law, which provides for the retirement of certain government employees with gratuity depending upon the length of their service. Section 7 of said Act 4051 specifically provides that the Justices of the Peace who must be retired under Act 3899 shall be entitled to the benefits of the Gratuity Law, Act 4051. The Governor-General of the Philippine Islands, Honorable Theodore Roosevelt, approved Act 4051, with the exception of said section 7 of said Act 4051. (Record, pp. 4-8).

The petitioner, Juan Bengzon, duly filed his application for his gratuity, in accordance with Act 4051, with the Governor-General, the Secretary of Justice and the Insular Auditor, but his claim for gratuity was denied by all these officials, on the ground that section 7 of Act 4051 was vetoed by the Governor-General, (Record, pp. 18-29). On March 7, 1934, petitioner filed an action for a writ of man-

damus in the Court of First Instance of Manila, P. I., against the Secretary of Justice and Insular Auditor, present respondents herein. The petitioner contended, in his action, that section 7 of Act 4051 is in force as law, because the veto by the Governor-General of said section was unconstitutional, the same being against the provisions of section 19 of the Act of Congress of August 29, 1916, or the Jones Law. (Record, pp. 1-3)

The case was submitted by the parties on a stipulation of facts (Record, pp. 18-29) and on August 25, 1934, the Court rendered a decision against the petitioner. (Record, pp. 29-35). The Court held that the validity of the veto by the Governor-General of said section 7 of Act 4051 could not be raised or determined in the cause because the Governor-General was not a party to the case. From that decision, petitioner duly appealed to the Supreme Court of the Philippine Islands. (Record, pp. 35-36).

The cause was duly docketed in the Supreme Court of the Philippine Islands, bearing No. 42821 of the General Register, petitioner and appellant assigning the following errors:

1. The Court A QUO erred in declaring that the question of the validity and the constitutionality of the veto by the Governor-General of section 7 of Act 4051 cannot be determined in this present case because the Governor-General is not included as a party to it, and, thus in dismissing plaintiff's action with costs.

2. The Court A QUO erred in not declaring that the veto by the Governor-General of section 7 of Act 4051 is unconstitutional and invalid, hence said section 7 of Act 4051 is in full force and effect as law.

3. The lower Court erred in not declaring

that the plaintiff-petitioner is entitled to his gratuity under said section 7 of Act 4051.

4. The Court A QUO erred in not granting plaintiff-appellant's petition for the issuance of a writ of mandamus directed against defendants-respondents. (Record, pp. 35-36).

On January 18, 1936, the Supreme Court of the Philippine Islands promulgated its decision declaring that Act 4051 is an appropriation law and that section 7 of said Act 4051 is an "item of an appropriation bill" within the meaning of section 19 of the Act of Congress of August 29, 1916, or Jones Law, as well as of Article VI, section 2, of the Constitution of the new Philippine Commonwealth, and that the Philippine Lelgislature, not having overriden the veto and the Executive Department of the government having accepted said veto as valid, the presumption is that the Act of the Governor-General was constitutional and the Court must respect said implied approval, hence the veto by the Governor-General of said section 7 of Act 4051 is valid and constitutional and, therefore, petitioner is not entitled to gratuity. The judgment of the lower Court was affirmed, four justices dissenting. (Record, pp. 36-50).

SPECIFICATION OF ERRORS

ERROR I

THE HONORABLE SUPREME COURT OF THE COMMONWEALTH OF THE PHILIPPINES ERRED IN HOLDING AND DECLARING THAT ACT NO. 4051 OF THE PHILIPPINE LEGISLATURE IS AN "APPROPRIATION BILL" WITHIN THE MEANING OF SECTION 19 OF THE ACT OF CONGRESS OF AUGUST 29, 1916 (JONES LAW) AND OF ARTICLE VI, SECTION

2, OF THE CONSTITUTION OF THE COMMONWEALTH OF THE PHILIPPINES.

ERROR II

THE HONORABLE SUPREME COURT OF THE COMMONWEALTH OF THE PHILIPPINES ERRED IN HOLDING AND DECLARING THAT SECTION 7 OF ACT NO. 4051 OF THE PHILIPPINE LEGISLATURE IS AN "ITEM OF AN APPROPRIATION BILL" WITHIN THE MEANING OF SECTION 19 OF THE ACT OF CONGRESS OF AUGUST 29, 1916, (JONES LAW) AND OF ARTICLE VI, SECTION 2, OF THE CONSTITUTION OF THE COMMONWEALTH OF THE PHILIPPINES.

ERROR III

THE HONORABLE SUPREME COURT OF THE COMMONWEALTH OF THE PHILIPPINES ERRED IN HOLDING AND DECLARING THAT THE VETO BY THE GOVERNOR-GENERAL OF SECTION 7 OF ACT NO. 4051 OF THE PHILIPPINE LEGISLATURE IS VALID AND CONSTITUTIONAL UNDER THE PROVISIONS OF SECTION 19 OF THE ACT OF CONGRESS OF AUGUST 29, 1916 (JONES LAW) AND OF ARTCLE VI, SECTION 2, OF THE CONSTITUTION, OF THE COMMONWEALTH OF THE PHILIPPINES AND IN DENYING TO PETITIONER HEREIN THE REMEDY PRAYED FOR.

SUMMARY OF ARGUMENT

1. Act 4051 of the Philippine Legislature, although containing a provision appropriating a sum of money to give it effect, is not an appropriation act; and granting that said Act 4051 is an appropriation act, it is not an "appropriation bill" within the meaning of section 19 of the Act of Congress of August 29, 1916, (Jones Law) and of Article VI, section 2, of the Constitution of the Commonwealth of the Philippines.

2. Act 4051 is a gratuity bill, no more, no less.

3. Sec. 7 of said Act 4051 is not "an item of an appropriation bill" within the meaning of Sec. 19 of the Act of Congress of August 29, 1916 (Jones Law), because said section is not, by itself, an appropriation. To be an "item" within the meaning of the Act of Congress of August 29, 1916 (Jones Law) and of Article VI, section 2, of the Constitution of the Commonwealth of the Philippines, the section must, by itself, be a distinct and separate appropriation.

4. Said section 7 of Act 4051 of the Philippine Legislature, not being "an item of an appropriation bill" within the meaning of sec. 19 of the Act of Congress of August 29, 1916 (Jones Law), its veto by the Governor-General of the Philippine Islands pursuant to his special veto power to veto "an item or items of an appropriation" is unconstitutional, hence the veto is null and void.

ARGUMENT

ERROR I

THE HONORABLE SUPREME COURT OF THE COMMONWEALTH OF THE PHILIPPINES ERRED IN HOLDING AND DECLARING THAT ACT NO. 4051 OF THE PHILIPPINE LEGISLATURE IS AN "APPROPRIATION BILL" WITHIN THE MEANING OF SECTION 19 OF THE ACT OF CONGRESS OF AUGUST 29, 1916 (JONES LAW), AND OF ARTICLE VI, SECTION 2, OF THE CONSTITUTION OF THE COMMONWEALTH OF THE PHILIPPINES.

Section 19 of the Act of Congress of August 29, 1916 (Jones Law), in regard to the special veto power of the Governor-General, provides: "The Governor-General shall have the power to veto any particular item or items of an appropriation bill, but the veto shall not affect the item or items to which he does not object."

As is well known, the provisions of the Jones Law were patterned if not taken from various federal and state constitutions in the United States and it is a well known fact that the veto power granted the chief executive by the federal and state constitutions was originally based on a similar power exercised by the English sovereign. (Fairfield v. Foster (1923) 25 Ariz. 146, 214 Pac. 319.) Now this power, though exercised by an officer whose functions were principally executive, was essentially legislative in its nature. (1 Blackstone, Com. 361). But this power, conferred by a constitution, must be exercised only in the cases and in the manner provided by that constitution. (Fairfield vs. Foster, supra). This power of the executive granted by the various federal and state constitutions to veto an item or items of an appropriation bill was designed with a view to guarding against the evils of omnibus appropriation bills, securing unrighteous support from diverse interests, and to enable the chief executive to approve and make law some appropriations, and to put others to the test of securing a two thirds vote of the legislature as the condition of becoming law. (State v. Holder 76 Miss. 158, 23 So. 643). It was designed to serve the same purpose as to appropriation bills as that proviso contained in various federal and state constitutions which prohibits a bill to embrace more than one subject and which subject must be expressed in the title of the bill. The provision was designed against omnibus appropriation bills, the same as the latter was designed against omnibus bills. The latter protection is found in section 3, paragraph 17 of the Jones Law which provides "that no bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in

the title of the bill." In plain English, the special veto power of the executive was designed to give the executive the right to object to the expenditure of money for a specified purpose and amount, without being under the necessity of and at the same time refusing to agree to another expenditure which meet his entire approval. (Com. etc. v. Barnett 199 Pa. 161, 55 L.R.A., 882, 48 Atl. 976).

Let us examine carefully Act 4051. In its title, it says:

> **"An Act to provide for the payment of retirement gratuities to officers and employees of the insular government retired from the service as a result of reorganization or reduction of personnel thereof, including the justices of the peace who must relinquish office in accordance with the provisions of act numbered thirty-eight hundred and ninety-nine, and for other purposes."**

It contains but 12 sections. A careful examination of the act will show that every section of the act, except section 10, treats of the gratuity granted by the Act, but does not mention any funds or money of the government, much less appropriate any sum out of the treasury for any purpose whatsoever. Section 10 of the act, however, says: "The necessary sum to carry out the purposes of this Act is hereby appropriated out of any funds in the Insular Treasury not otherwise appropriated."

With all due respect for the decision of the Honorable Supreme Court of the Commonwealth of the Philippines, it is respectfully submitted that Act 4051 of the Philippine Legislature is not an "appropriation bill" within the meaning of section 19 of the Act of Congress of August 29, 1916 (Jones Law).

It is a gratuity act, no more, no less. It is a gratuity act and not an appropriation act in spite of section 10 thereof. The mere fact that said sec. 10 makes an appropriation is merely a collateral incident, a necessary and concomitant proviso to carry out the purpose of the act, an indispensable appendage to the accomplishment of the object of the Legislature embodied in the Act, and that is to provide gratuity to certain officers and employees of the government. In other words, said section 10 is nothing but a logical corollary of the other provisions of the Act to carry into effect the object of the law. It cannot be denied and we do not deny it that said section 10, taken by itself, is an appropriation, but certainly it is not and it cannot be the essence of the act, much less is it the element that gives to the Act its nature. Consequently, in no sense can it be said and successfully maintained that Act 4051 is an appropriation act.

But let us assume for the sake of argument that Act 4051 is an appropriation act. Is it an appropriation Act within the meaning of Sec. 19 of the Jones Law? Is it the appropriation act contemplated by the framers of the autonomy act? Can it be successfully maintained that sec. 19 of the Jones Law, in speaking of "appropriation bill", refers to an appropriation bill as the act in question? We do not hesitate to assert that Act 4051, even if we grant for the sake of argument that it is an appropriation act, is not an "appropriation bill" within the meaning of sec. 19 of the Jones Law. We insist that Act 4051 is not the "appropriation bill" contemplated by the framers of the autonomy act. We maintain, and in this we are supported by the other provisions of the Jones Law, the history of this proviso as to the special veto power of the exe-

cutive, as well as the purpose behind the existence of the said special veto power, that the "appropriation bill" as contained in sec. 19 of the Jones Law refers to the general appropriation bill or the annual budget, or at most, to special appropriation bills with distinct items of appropriations. But certainly it can not mean any bill, whatever its purpose, object and subject may be, that happens accidentally to provide in one of its sections a certain appropriation. Such interpretation would certainly be arbitrary and will surely defeat the very purpose of the framers of the autonomy act in including the proviso in question. It would for sure destroy all the safeguards contained in the constitution in regard to the separation of powers in the government, will make the power of the executive omnipotent, for then he will have practically the same legislative power as the very Legislature, and we shall have a condition of things never contemplated and appalling in its possible consequences.

Let us examine American jurisprudence in its interpretation of this very proviso giving special veto power to the chief executive. A painstaking and careful examination of the cases decided by the various federal and state courts in the United States will show that the "appropriation bill" mentioned in the proviso in question has always invariably been taken to mean "general appropriation bills or of special appropriation bills containing several items of appropriations—that is to say, special appropriation bills, with distinct items of appropriations." It has never been interpreted to mean any kind of bill, as the act in question, but general appropriation bills or at least genuine special appropriation bills.

In the case of State ex rel. Teachers & Officers v. Holder 76 Miss. 158, 23 SO 643, this very question was squarely raised. Section 73 of the constitution of Mississippi expressly provides as follows: "SEC. 73. The Governor may veto parts of any appropriation bill, and approve parts of the same, and the portions approved shall be law." The Court, in a scholarly decision and interpreting the special veto power of the Governor as contained in said section 73 of the State constitution, said:

"SEC. 73 of the constitution relates to general appropriation bill, or those containing several items of distinct appropriations—that is to say, special appropriation bills, with distinct items of appropriations. It applies to such as are made up of parts and consists of portions separable from each other as appropriations. x x x"

"x x x The true meaning of sec. 73 is that an appropriation bill made up of several parts —that is,distinct appropriations, different, separable, each complete without the others, which may be taken from the bill without affecting the others, which may be separated into different parts complete in themselves may be approved and become a law in accordance with the legislative will, while others of like character may be disapproved and put before the legislature again, dissociated from the other appropriations."

It is respectfully submitted that the decision of the Honorable Supreme Court of the Commonwealth of the Philippines does not give any satisfactory reason for its interpretation that Act No. 4051 of the Philippine Legislature is an "appropriation bill" within the meaning of section 19 of the Act of Congress of August 29, 1916 (Jones Law).

It is respectfully submitted that the dictum of the Honorable Supreme Court of the Commonwealth of the Philippines in regard to the point is not based upon any solid legal principle and neither does it satisfy.

ERROR II

THE HONORABLE SUPREME COURT OF THE COMMONWEALTH OF THE PHILIPPINES ERRED IN HOLDING AND DECLARING THAT SECTION 7 OF ACT NO. 4051 OF THE PHILIPPINE LEGISLATURE IS AN "ITEM OF AN APPROPRIATION BILL" WITHIN THE MEANING OF SECTION 19 OF THE ACT OF CONGRESS OF AUGUST 29, 1916 (JONES LAW) AND OF ARTICLE VI, SECTION 2, OF THE CONSTITUTION OF THE COMMONWEALTH OF THE PHILIPPINES.

Section 7 of Act 4051 of the Philippine Legislature provides as follows: "The justices of the peace who must relinquish office during the year nineteen hundred and thirty-three in accordance with the provisions of Act Numbered Thirty-eight hundred and ninety-nine, shall also be entitled to the gratuities provided for in this Act." The Honorable Supreme Court of the Commonwealth of the Philippines, in its decision, declared that said section 7 of Act No. 4051 of the Philippine Legislature is an "item of an appropriation bill" within the meaning of section 19 of the Act of Congress of August 29, 1916 (Jones Law) and specifically declared as follows: "An appropriation is the setting apart by law of a certain sum from the public revenue for a specified purpose. An item is the particulars, the details, the distinct and severable parts of the appropriation or of the bill. No set form of words is needed to make out an appropriation

or an item. (State v. Moore, 1896, 50 Neb. 88; Callaghan v. Boyce, 1915, 17 Ariz. 433.)"

It is respectfully submitted that the Honorable Supreme Court of the Commonwealth of the Philippines erred in holding and declaring that said section 7 of Act No. 4051 of the Philippine Legislature is an "item of an appropriation bill" within the meaning of section 19 of the Act of Congress of August 29, 1916 (Jones Law) and of Article VI, Section 2 of the constitution of the Commonwealth of the Philippines.

The term "item" as used in section 19 of the Act of Congress of August 29, 1916 (Jones Law) has a well defined meaning. Examining carefully the various decisions of State and Federal courts in the United States, it will be found that the term "item" has been invariably held to mean "the particulars, the details, the distinct and severable parts of the appropriation." In Commonwealth vs. Barnett, 199 Pa. 161, 48. Alt. 976, 55 L.R.A. 882, the term "item", as used in Article 4, S 16, Constitution of Pennsylvania, a similar provision, was held to mean "the particulars, the details, the distinct and severable parts of the appropriations." The same meaning was given in Callaghan vs. Boyce, (1915) 17 Ariz. 433, 153 Pac. 773. The above definition of the word "item" is generally, without any dissent, the interpretation given by the federal and state courts in the United States. And in Mennefee v. Askew, 25 Okl. 623, 107 Pac. 159, 27 L.R.A. (N.S.) 537, the word "appropriation" has been defined as "an authority from the Legislature, given at the proper time and in legal form to the proper officers, to apply a distinctly specified sum out of a designated fund in the treasury in a given

year to a specified object or demand against the state. No particular expression or set form of words is requisite or necessary to the accomplishment of the purpose."

The above meanings given to the words "item" and "appropriation" by the federal and state courts in the United States certainly exclude said sec. 7 of Act 4051 from being "an item of an appropriation bill." Said section undoubtedly is not and can never be "the particulars, the details, the distinct and severable parts of the appropriation." It is and may be a particular, the detail, the distinct and separable part of the Gratuity bill, but it is not "the particulars, the details, the distinct and severable parts of the appropriation." This is so because said sec. 7 of Act 4051, by itself, does not, in any way, make any appropriation of money.

In the case of Black & White Taxicab Co. v. Standard Oil Co. (1925) 25 Ariz. 381, 218 Pac. 139, a leading case as to the interpretation of the proviso "item or items of appropriations," the Court held that a provision in an appropriation bill imposing a tax and providing for the apportionment of the same is not "an item of an appropriation". In said leading case, the Court held that a provision of an appropriation bill to constitute an "item of an appropriation" must in itself be a distinct appropriation of money, distinct and separable.

In Com. ex rel, Elkin v. Barnett, (1901) 199 Pa., 161, 55 L.R.A. 882, 48 Atl. 976, the Court also interpreted the "item of appropriation" to mean a provision making an appropriation of money which is a distinct and separate appropriation. Thus in that case the Court upheld the veto by the Governor in an ap-

propriation bill of the amount of $2,100.00 per annum provided for one rate clerk.

In People v. Brady, 277 Ill. 120, 115 N.E., 204, State v. Jones, 99 S.c. 8, 82, S.E. 882, and Fulmore v. Lane, 104 Tex. 499, 140, S.E. 405-421, 1082, the Court took the view and held to the same doctrine that a proviso to be "an item of appropriation" must in itself be a distinct and separable appropriation.

And specifically in Fulmore v. Lane, 104 Tex. 499, 140 S.E., 405-421, 1082, and in Callaghan v. Boyce, (1915) 17 Ariz. 433, 153 Pac. 773, the Court held that a proviso to be "an item of an appropriation" must be in itself a distinct and separate appropriation. In the above two cases cited, the Court defined the word "item" to mean "the particulars, the details, the distinct and separable parts of the appropriations". It should be noted and to this we invite the attention of the Court that the word "item" has not been interpreted to mean "the particulars, the details, the distinct and separable parts of the bill," but "the particulars, the details, the distinct and separable parts of the appropriations." Hence, if the proviso is not itself a distinct and separate appropriation, it is not an item within the meaning of the constitution.

We have examined carefully the cases decided by various federal and state courts in the United States as to this point and we have yet to find a case which holds that a proviso in an appropriation bill which does not make a distinct and separate appropriation is "an item of appropriation" within the meaning of the constitutional provision in question.

PURPOSE AND PHILOSOPHY OF CONSTITUTIONAL PROVISION

The special veto power of the executive granted by the constitution to veto an item or items of an appropriation bill was designed with a view to guarding against the evils of omnibus appropriation bills, securing unrighteous support from diverse interests, and to enable the chief executive to approve and make law some appropriations, and to put others to the test of receiving a two thirds vote of the legislature as the condition of becoming law. (State v. Holder, 76 Miss. 158, 23 SO 643).

The constitutional provision, in regard to the special veto power of the Governor-General, therefore, is clear and plain in its purpose. The power given under it to the executive to veto in part a bill is definitely and clearly confined, limited and restricted to appropriation bills only. This is very plainly seen in the constitutional grant itself. Under the principle EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS the framers of the constitutional provision in question have clearly revealed the intent, the purpose and the philosophy of this constitutional grant of power to the executive in regard to the special veto power. Hence, this special veto power is clearly, definitely and strictly confined to matters of appropriation. But the Honorable Supreme Court of the Philippine Commonwealth would interpret the word "item" to mean any part of a bill which is not itself a distinct appropriation. It is respectfully submitted such interpretation is a rank heresy against the purpose, the intent and the philosophy of the constitutional provision in question. It is illogical, it is inconsistent. Such interpretation would make a mockery of the constitutional provision in

question. It would put to naught the very intent, the purpose, the philosophy behind the constitutional grant of special veto power. **It would mean the giving to the executive a power which is plainly excluded in the very constitutional grant.** It would mean, in effect, giving to the executive the power to veto non-appropriation matters, which is plainly denied him under the very constitutional provision in question.

But we invite further the attention of this Court to another point. We submit that sec. 7 of Act 4051 is not "an item of appropriation" but merely a condition or proviso of an appropriation.

Sec. 10 of Act 4051 provides: "The necessary sum to carry out the purposes of this act is hereby appropriated out of any funds in the Insular Treasury not otherwise appropriated," and Sec. 7 of Act 4051 provides: "The justices of the peace who must relinquish office during the year nineteen hundred and thirty-three in accordance with the provisions of Act Numbered Thirty -eight hundred and ninety-nine, shall also be entitled to the gratuities provided for in this Act." As was held in Black &White Taxicab Co. v. Standard Oil Co. (1923) 25 Ariz. 381, 218 Pac. 139 and in Fairfield v. Foster (1923) 25 Ariz. 146, 214 Pac. 319 "The executive cannot veto a condition or proviso of an appropriation while allowing the appropriation to stand. That would be affirmative legislation, without even the concurrence of the legislature."

In conclusion, we can do no better than quote herewith what was said in that important and leading case of State v. Holder, 76 Miss. 158, 23, SO. 643:

"And after all, and despite the pragmatic utterances of political doctrinaires, the executive, in every republican form of government, has only a qualified and destructive legislative function, and never creative legislative power. If the governor may select, dissent and dissever, where is the limit of his right? Must it be a sentence, or a clause, or a word? Must it be a section, or any part of a section, that may meet with executive disapprobation? May the governor transform a condition or a contingent appropriation into an absolute one, in disregard and defiance of the legislative will? That would be the enactment of law by executive authority without the concurrence of the legislative will, and in the face of it."

". . . To allow a single bill, entire, inseparable, relating to one thing, containing several provisions, all complementary of each other, and constituting one whole, to be picked to pieces, and some of the pieces approved, and others vetoed, is to divide the indivisible; to make one of several; to distort and pervert legislative action, and, by veto, make a two-thirds vote necessary to preserve what a majority passed allowable as to the entire bill, but inapplicable to a unit composed of diverse complementary parts, the whole passed because of each. The bill in question is an entire thing, inseparable in its provisions and to be approved or disapproved as such, and, not having been signed as a whole, was not made law by the partial and qualified approval which it received."

ERROR III

THE HONORABLE SUPREME COURT OF THE COMMONWEALTH OF THE PHILIPPINES ERRED IN HOLDING AND DECLARING THAT THE VETO BY THE GOVERNOR-GENERAL OF SECTION 7 OF ACT NO. 4051 OF THE PHILIPPINE LEGISLATURE IS VA-

LID AND CONSTITUTIONAL UNDER THE PROVISIONS OF SECTION 19 OF THE ACT OF CONGRESS OF AUGUST 29, 1916 (JONES LAW) AND OF ARTICLE VI, SECTION 2, OF THE CONSTITUTION OF THE COMMONWEALTH OF THE PHILIPPINES AND IN DENYING TO PETITIONER HEREIN THE REMEDY PRAYED FOR.

It is respectfully submitted that the Honorable Supreme Court of the Commonwealth of the Philippines erred in holding and declaring that the veto by the Governor-General of sec. 7 of Act 4051 of the Philippine Legislature is valid and constitutional. In the previous pages, we believe we have discussed exhaustively the fact that said Act 4051 is not "an appropriation bill" and neither is section 7 thereof "an item of an appropriation bill" within the meaning of section 19 of the Act of Congress of August 29, 1916 (Jones Law). Therefore, it is respectfully submitted the veto by the Governor-General of said section 7 of Act 4051 of the Philippine Legislature is unconstitutional, invalid and of no effect. As a logical consequence, said section 7 of Act 4051 of the Philippine Legislature is in full force and effect as law and by virtue thereof the present petitioner is entitled to the payment of his gratuity as provided in said law of the Philippine Legislature.

DISASTROUS CONSEQUENCES OF THE DECISION OF THE PHILIPPINE SUPREME COURT

The interpretation given by the Honorable Supreme Court of the Commonwealth of the Philippines to the constitutional provision in question is fraught with the gravest consequences to the government of

the Commonwealth and the future Philippine Republic. It is respectfully submitted that said interpretation has opened wide the doors to connivance between an unscrupulous chief executive and a supine legislature to defeat the form of government established by the constitution of a strict separation of powers between the three departments of the government. It is more than that. Henceforth, the chief executive will be omnipotent, because he will have practically the same legislative power as the very Legislature, and we shall have a condition of things never contemplated and appalling in its possible consequences. For it is not beyond possiblity that, in order to give the President a chance to use his veto according to the constitution, a section that appropriates money, however insignificant and valueless it may be, should be inserted in any kind of bill passed by the Legislature, and thus the President would have the right to veto any section in said bill under the special power to veto "an item or items of an appropriation bill". It will certainly be a dangerous delegation of legislative power pure and simple, if not an abandonment of the legislative power to the chief executive. And in such a situation, supposing that the framers of the constitution intended the proviso in question to be interpreted that way, there is no necessity for any limitation of the veto power of the chief executive. There would be no necessity for the existence of the proviso as to the veto power of the Executive. It is because we cannot conceive of any bill which cannot be turned into "an appropriation bill" by the simple expedient of inserting therein a section or part, however insignificant, that appropriates money.

PRAYER

PREMISES CONSIDERED, the petitioner respectfully prays that the petition for a writ of certiorari be granted and that the decision and judgment of the Supreme Court of the Commonwealth of the Philippines be reversed and another entered, issuing a writ of Mandamus directed to the respondents and each of them, commanding them to approve, authorize, and order the payment to the petitioner of the gratuity granted to him by Act No. 4051 of the Philippine Legislature to which he is lawfully entitled.

Pedro Y. Ylagan
Counsel for Petitioner
510 Maria Clara, Manila,
Philippine Islands.

Manila, Philippine Islands
June 10th, 1936.